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[Third Party Communication:

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From: [REDACTED]

Sent: Monday, April 27, 2015 9:44:37 AM

To: [REDACTED]

Cc: [REDACTED]

Bcc:

Subject: RE:

All of these e-mails should include [REDACTED], who is [REDACTED] reviewer on the matter.

I would only add that the whole point of a subsection (b) superpriority is to cede FTL priority, even after an NFTL is filed, to the various persons listed. The (b)(10) superpriority depends on nothing more than a lack of actual knowledge (assuming the other elements are met, *e.g.*, that the person is a bank for purposes of section 581, that the account is secured under local law, that it is the correct type account, *etc.*).

What [REDACTED] and [REDACTED] discussed is how these cases really need factual development. If the Service had levied on the customer whose indebtedness was reflected by the account receivable, then the customer would have personal liability (plus a potential 50% penalty) to the extent that it fails to honor the levy and instead gives the money directly to the taxpayer. But, once the money was given to the taxpayer, and in this case there was no levy, the taxpayer had no obligation to do anything with the money (barring bankruptcy, or a receivership, *etc.*). Even if the government has an interest in property, taxpayers have no obligation to pay one creditor ahead of another. Moreover, even if the money came from a gift (*i.e.*, a source that was unencumbered by the FTL), as opposed to the customer's account receivable (*i.e.*, a source encumbered by the FTL), the FTL would still encumber such property (or rights to property) in the hands of the taxpayer, because it would simply be after-acquired property under McDermott (SP?). So the fact that the money came from the accounts receivable is, in some respects, a red herring. The same "loss of government" priority happens anytime a taxpayer deposits money into a (b)(10) secured account. So, [REDACTED] was going to flesh out the facts a bit, I think to support some tracing argument. I am happy to assist if/when we get something in writing.

Regards,